

“Cooling Off Period” and Return to Normal Operations

We are receiving reports from school districts regarding information they have been provided outlining the BC Teachers' Federation (BCTF) and some local teacher associations' "plans for action" in their opposition to the [Education Improvement Act](#) (the Act).

Some of the items in these plans appear contradictory to the "cooling-off" period required by the Act that could interfere with the return of schools to their normal operations. Districts are also hearing that many teachers are expressing confusion about what is expected of them during this time. BCPSEA will be monitoring this situation and working with districts over the coming weeks.

With the cooling-off period and the 2006-2011 collective agreement currently in effect, teachers must resume any activities that were a normal requirement of the job. The two issues that appear to be of most urgent concern to districts are the preparation of spring report cards and participation of teachers in meetings called by administrators. Our recommendations at this time regarding these matters are outlined below.

Spring Report Cards

- During the strike teachers were required to continue to perform assessment, evaluation, and marking. Now that the strike is concluded, school districts are entitled to direct teachers to enter marks in the normal manner and to prepare and distribute report cards, and teachers who are directed to do so must comply with those directions. An individual refusal to perform such work would be failure to follow a lawful order and be subject to discipline; concerted refusal to do such work would constitute an illegal strike.
- Districts have reported that they are being told by some teachers that they have been instructed by their union not to do certain work because it is "struck work"; i.e., work that they were entitled to refuse to do under their Phase 1 strike activity. There is no concept of "struck work" in this context that would allow teachers to continue to refuse to prepare report cards even after the lawful strike has concluded. "Struck work" is a concept that is sometimes applied in a situation where a union is currently on strike and others are asked to do the work of the striking union. It is not a concept that is applied to ongoing work when a union is no longer on strike and its members are resuming their normal duties.

Simply put, when a strike is over, employees are required to resume normal duties and there is no recognized exemption for work that may have accumulated during the strike. If such a concept existed, then health care union members could refuse to do surgery on patients who, but for the strike, would have had an operation performed at an earlier time; or a construction crew could refuse to build a particular floor in a building, etc. In the context of returning to normal duties after a strike has ended, the refusal to do such activities constitutes an unlawful continuation of strike activity if the refusal is concerted, and may also appropriately attract discipline.

- Districts have also heard from some local teachers' associations that the district is now precluded from issuing a report card until the end of the year as "two report cards" have either been distributed (in November) or were "cancelled" by the Ministry of Education (in January). It is BCPSEA's opinion that this is simply incorrect and, in any event, the *School Act* speaks to a minimum of three formal reports and does not limit districts from determining that additional reports are necessary.
- Prior to directing teachers to prepare and distribute report cards, we recommend that districts speak to their local teachers' association to discuss the district's expectations about the contents of the report card (e.g., will the current report card reflect all progress and/or the cumulative grade from September to the current date or will separate entries be made for September to November and November to April) and the timing of this report card. It will also be necessary to provide sufficient time for teachers to prepare the report cards. We recommend that districts follow up on such discussions with a letter to the local teachers' association that clearly outlines the district's expectations regarding a Spring report card.

For example, districts may require the following:

Elementary Students: A report card will be issued on [date]. That report card will reflect the student's progress from September to April.

Middle School and Secondary Students:

- Linear timetable: A report card will be issued on [date]. That report card will contain [all progress and the cumulative grade from September to April or separate entries for progress and grades from September to November and November to April].
- Semester timetable: A report card will be issued on [date], which will contain the first semester final mark and the student's semester two progress and grade from January to April.
- Quarter system: A report card will be issued on [date], which will reflect all progress and the student's grades from September to April.

BCPSEA is hopeful that teachers will recognize the importance of this reporting for parents, students, other teachers, and administrators to be able to properly support children in the successful completion of this school year. Please inform us if there are refusals by teachers to comply with instructions regarding report cards. It may be necessary for districts to issue further directions and/or follow-up appropriately on refusals.

Meetings Called by Administrators

- Some districts have reported that they are hearing that teachers will not attend staff, committee, or parent meetings outside of instructional time and/or that teachers will not attend meetings with administrators unless they are given written direction to do so. In fact, administrators may set staff and other meetings outside of instructional time, except as limited by the collective agreement and there is no requirement for written directions to be issued for setting up these meetings. Teachers are not permitted to refuse to attend meetings outside of instructional time if they are normally required by the job, and they cannot refuse to meet with administrators except as provided in the collective agreement.
- We suggest that administrators begin to schedule staff and committee meetings to meet the needs of the students, teachers, and the school and inform teachers of the nature, agendas, and time of those meetings in the normal manner. Given that many of these meetings have not occurred this school year, it may be necessary to remind teachers about the specific purposes, timing, agendas, and procedures for the particular meetings. If teachers specifically refuse to attend meetings, it may be necessary for districts to issue further directions and/or follow up appropriately on refusals.

BCPSEA will work with districts and liaise with the BCTF over the next few weeks. It is important that regular routines are re-established reasonably soon, but a cooperative approach to this process is preferred.

Questions

Please contact your BCPSEA [labour relations liaison](#) if you have any questions or concerns.